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10/613,319

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Myles C. S. Harrington

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EXAMINER

SWARTZ, JAMIE H

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/613,319	Applicant(s) HARRINGTON ET AL.	
	Examiner JAMIE H. SWARTZ	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 189-198, 200-203, 205-212, 214-217, 220, 221, 224-233, 243 and 245-247 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 189-198, 200-203, 205-212, 214-217, 220-221, 224-233, 243, 245-247 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on July 21, 2008 has been entered.

Double Patenting

2. Claims 189-198, 200-203, 205-212, 214-217, 220-221, 224-233, 243, 245-247 of this application conflict with claims 65-148 of Application No. 12/169380. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 189-198, 200-201, 203, 205-212, 215-217, 220-221, 224-228, 230-232, 243, 245-247 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parity Reference Manual Version 1.22 (1993) and Landes, David, Letter from David Landes to Dan Veres (August 16, 1996) in the future referred to as Landes Letter in view of Official Notice.

5. Regarding claim 189, Parity Reference Manual teaches computer-mediated method of conducting an auction of an interest-bearing financial instrument over the Internet (pg. 3, pg. 11). Parity Reference Manual teaches wherein bidders can be in different physical locations and can simultaneously participate in the auction (pg. 11, 24-25). Parity Reference Manual teaches communicating over the Internet with at least one computer having auction software (pg. 11, 24-25). Parity Reference Manual teaches enforcing at least one standard bidder must satisfy to submit competing bids (pg. 23-25). Parity Reference Manual teaches enforcing at least one auction rule competing bids must satisfy (pg. 23-25). Parity Reference Manual teaches displaying the official auction time (pg. 5). Parity Reference Manual teaches receiving, over the Internet, bids from bidders (pg. 5, 11, 24-25). Parity Reference Manual teaches enabling bidders to modify their bid inputs (pg. 5). Landes Letter teaches permitting comparison of received

bids (pg. 1). Parity Reference Manual teaches providing information allowing for display of at least the best bid (pg. 10). Parity Reference Manual and Landes Letter do not specifically teach a web browser. However Official Notice is taken that when the parent application was filed on May 29, 1998, the use of web browsers was well known in the art. See page 10 of United States Court of Appeals for the Federal Circuit 2007-1485 *Muniauction, Inc. v. Thomson Corporation*.

6. Regarding claim 190, Parity Reference Manual teaches conducting multiple auctions simultaneously (pg. 3).

7. Regarding claim 191, Parity Reference Manual teaches offering multiple instruments in the same auction (pg. 7).

8. Regarding claim 192, Parity Reference Manual teaches bidders may participate in a plurality of auctions simultaneously (pg. 7).

9. Regarding claim 193, bidders may bid more than one instrument in the same auction (pg. 5-10).

10. Regarding claim 194, Parity Reference Manual teaches wherein bidders may bid more than one instrument in multiple auctions conducted simultaneously (pg. 5-10).

11. Regarding claim 195, Parity Reference Manual teaches wherein bidders may bid portions of a single instrument (pg. 5-10).
12. Regarding claim 196, Parity Reference Manual wherein bidders register before submitting bids (pg. 1-2).
13. Regarding claim 197, Parity Reference Manual teaches wherein bidders log in with an identification and password (pg. 1-2).
14. Regarding claim 198, Parity Reference Manual teaches providing bidders online access to offering documents (pg. 3).
15. Regarding claim 200, Parity Reference Manual teaches providing a display that informs bidders of the time remaining in a bidding period (pg. 5).
16. Regarding claim 201, Landes Letter teaches wherein a bid improvement is made by submitting a lower bid (pg. 1).
17. Regarding claim 203, Landes Letter teaches wherein the lowest bid is the best bid

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18. Regarding claim 205, Parity Reference Manual teaches wherein bidders supply conditions to their bids (pg. 5).

19. Regarding claim 206, Parity Reference Manual teaches wherein a bidder enters and modifies a bid without submitting it (pg. 5).

20. Regarding claim 207, Parity Reference Manual teaches wherein a bidder confirms or acknowledges a bid after submission (pg. 5-7).

21. Regarding claim 208, Parity Reference Manual teaches wherein a bidder may view at least the best bid during the bidding period and improve it (pg. 15).

22. Regarding claim 209, Landes Letter teaches wherein rank order of bids is displayed (pg. 1-2).

23. Regarding claim 210, Parity Reference Manual teaches wherein status of a bidder's bid relative to other bids is displayed during the bidding period (pg. 15-21).

24. Regarding claim 211, Parity Reference Manual teaches providing a means for bidders to confirm their intention to submit bids before their bids are treated as submitted (pg. 7).

25. Regarding claim 212, Parity Reference Manual teaches performing, on behalf of bidders, calculations using bid related inputs (pg. 5-6).

26. Regarding claim 215, Parity Reference Manual teaches wherein information related to at least one bid submission such as time of submission is saved in a data log (pg. 7, 10).

27. Regarding claim 216, Parity Reference Manual teaches displaying an observation page from which to observe submitted bids (pg. 7).

28. Regarding claim 217, Parity Reference Manual teaches including releasing bidding results (pg. 9).

29. Regarding claim 220, Parity Reference Manual teaches wherein confirmation of winning bids may be delivered electronically (pg. 10).

30. Regarding claim 221, Parity Reference Manual teaches wherein confirmation of winning bids may be delivered automatically (pg. 11).

31. Regarding claim 224, Parity Reference Manual teaches wherein said bidder inputs a price for said instrument (pg. 5-6).

32. Regarding claim 225, Parity Reference Manual teaches wherein said bidder inputs an interest rate for said instrument (pg. 5-6).

33. Regarding claim 226, Parity Reference Manual teaches wherein said bidder inputs a price and interest rate combination for said instrument (pg. 5-6).

34. Regarding claim 227, Parity Reference Manual teaches wherein said bidder inputs a principal amount for said instrument (pg. 5-6).

35. Regarding claim 228, Parity Reference Manual teaches wherein said bidder inputs a maturity date for said instrument (pg. 5-6).

36. Regarding claim 230, Parity Reference Manual teaches modifying auction parameters (pg. 1-10). Parity Reference Manual includes details of Internet auctions. Parity Reference Manual doesn't include the specific details of one or more menu-driven web pages. However Official Notice is taken that it was old and well known at the time of the invention to have a website where the navigation is menu-driven.

37. Regarding claim 231, Parity Reference Manual teaches regulating access to certain web pages (pg. 15). Parity Reference Manual includes details of Internet auctions. Parity Reference Manual doesn't include the specific details of one or more

menu-driven web pages. However Official Notice is taken that it was old and well known at the time of the invention to have a website where the navigation is menu-driven.

38. Regarding claim 232, Parity Reference Manual teaches authorizing bidder participation (pg. 1-2). Parity Reference Manual includes details of Internet auctions. Parity Reference Manual doesn't include the specific details of one or more menu-driven web pages. However Official Notice is taken that it was old and well known at the time of the invention to have a website where the navigation is menu-driven.

39. Regarding claim 243, Parity Reference Manual teaches further including communicating signals relating to said auction over a network. Parity Reference Manual does not specifically teach using Hypertext Transfer Protocol. However, Official Notice is taken that the use of HTTP was old and well known in the art at the time of the invention for Web Browsers. Parity Reference Manual and Landes Letter do not specifically teach a web browser. However Official Notice is taken that when the parent application was filed on May 29, 1998, the use of web browsers was well known in the art. See page 10 of United States Court of Appeals for the Federal Circuit 2007-1485 Muniauction, Inc. v. Thomson Corporation. HTTP is the protocol used to deliver the HTML website to the computer. Web Browsers designed to use HTTP. Web Browsers are most commonly a type of HTTP user agent.

40. Regarding claim 245, Parity Reference Manual teaches not allowing bidders to change said auction rules once bidding commences (pg. 5-10).

41. Regarding claim 246, Parity Reference Manual teaches a computer system for conducting an auction of at least one interest-bearing financial instrument over the Internet the computer system being structured to receive bids from bidders' over the Internet (pg. 3, pg. 11). Parity Reference Manual teaches wherein the bidders can simultaneously participate in auctions from different physical locations (pg. 11, 24-25). Parity Reference Manual teaches computer system executing auction software stored on a storage device (pg. 11, 24-25). Parity Reference Manual teaches receiving bids over the Internet for at least one interest-bearing financial instrument from bidders (pg. 5-10). Parity Reference Manual teaches enforce at least one standard for bidders to satisfy before they can submit competing bids (pg. 23-25). Parity Reference Manual teaches enforcing at least one auction rule for competing bids to satisfy (pg. 23-25). Parity Reference Manual teaches displaying the official auction time (pg. 5). Parity Reference Manual teaches enabling bidders to modify their bids (pg. 5-7). Landes Letter teaches permitting comparison of received bids to facilitate determination of winning bids (pg. 1). Parity Reference Manual teaches providing information for displaying winning bids (pg. 10). Parity Reference Manual and Landes Letter do not specifically teach a web browser. However Official Notice is taken that when the parent application was filed on May 29, 1998, the use of web browsers was well known in the art. See

page 10 of United States Court of Appeals for the Federal Circuit 2007-1485

Muniauction, Inc. v. Thomson Corporation.

42. Regarding claim 247, Parity Reference Manual teaches computer system for mediating an auction of at least one interest- bearing financial instrument, said computer system being structured to receive bids from bidders (pg. 3, pg. 11). Parity Reference Manual teaches wherein the bidders can be in different physical locations and can simultaneously participate in the auction (pg. 11, 24-25). Parity Reference Manual teaches enforce at least one standard for bidders to satisfy before they can submit competing bids (pg. 23-25). Parity Reference Manual teaches enforcing at least one auction rule for competing bids to satisfy (pg. 23-25). Parity Reference Manual teaches displaying the official auction time (pg. 5). Parity Reference Manual teaches receiving, over the Internet, bids from bidders (pg. 5-10). Parity Reference Manual teaches enabling bidders to modify their bid inputs (pg. 5-10). Landes Letter teaches permitting comparison of received bids (pg. 1). Parity Reference Manual teaches providing information allowing for display of at least the best bid (pg. 10). Parity Reference Manual and Landes Letter do not specifically teach a web browser. However Official Notice is taken that when the parent application was filed on May 29, 1998, the use of web browsers was well known in the art. See page 10 of United States Court of Appeals for the Federal Circuit 2007-1485 Muniauction, Inc. v. Thomson Corporation.

43. Claims 202, 214, and 233 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parity Reference Manual Version 1.22 (1993) and Landes, David, Letter from David Landes to Dan Veres (August 16, 1996) in the future referred to as Landes Letter in view of in view of Fisher et al. (US 6243691 B1) in further view of Official Notice.

44. Regarding claim 202, Parity Reference Manual teaches an Internet auction bidding system. Parity Reference Manual does not specifically teach where bids are made in minimum increments. However, Fisher teaches wherein bid improvements are made in minimum increments (col. 10, line 57 – col. 11, line 55, col. 12, line 33 – col. 13, line 24). Parity Reference Manual teaches an Internet based auction software. Fischer teaches conducting an interactive auction over an electronic network. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Parity Reference Manual to teach minimum bid improvements. Bid increments in theory prevent bidders from outbidding one another by a single cent. It also allows for the auction to progress.

45. Regarding claim 214, Parity Reference Manual teaches an Internet auction bidding system. Parity Reference Manual does not specifically teach extending a bidding period. However, Fischer teaches wherein the bidding period may be extended after bidding begins (col. 10, line 57 – col. 11, line 55, col. 12, line 33 – col. 13, line 24). Parity Reference Manual teaches an Internet based auction software. Fischer teaches

conducting an interactive auction over an electronic network. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Parity Reference Manual to teach extending a bidding period. The bidding period is the amount of time available to a prospective bidder to place a bid. If the minimum bid is not met there is a need to extend an auction. Auctions are a method of selling something for the highest price. There could be anything from weather or currency fluctuations which may lead the seller to believe that they will get more for their current auction if they wait a day.

46. Regarding claim 233, Parity Reference Manual includes details of Internet auctions. Parity Reference Manual doesn't include the specific details of one or more menu-driven web pages. However Official Notice is taken that it was old and well known at the time of the invention to have a website where the navigation is menu-driven. Parity Reference Manual also does not teach bid limitations. However, Fischer teaches setting bid limitations for one or more bidders (col. 8, line 56 – col. 9, line 40).

47. Claim 229 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parity Reference Manual Version 1.22 (1993) and Landes, David, Letter from David Landes to Dan Veres (August 16, 1996) in the future referred to as Landes Letter in view of Liederman (1996) in further view of Official Notice.

48. Regarding claim 229, Parity Reference Manual teaches a computer-method of conducting auctions, where bidders are in different locations having access to a computer, over the Internet. Parity Reference Manual does not specifically discuss JAVA. However, Liederman teaches wherein software such as, but not limited to, Java applet code or plug-ins that implement certain auction related functions is delivered to bidders computers (pg. 1-5). Parity Reference Manual discloses implementing an auction, through the use of a plurality of computer-based systems over the Internet. Liederman teaches using auction software over the World Wide Web. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Parity Reference Manual to include the details of JAVA. Java is a simple, object-oriented, distributed, interpreted, robust, secure, architecture-neutral, portable, multithreaded, dynamic, buzzword-compliant, general-purpose programming language. JAVA can increase the efficiency and the effectiveness by speeding up and allowing the action process to be more accurate. JAVA also makes the transactions more secure.

49. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE H. SWARTZ whose telephone number is (571)272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/J. H. S./
Examiner, Art Unit 3694

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694